

R. Bennett

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States Court
Southern District of Texas
FILED

JUN - 5 2019

David J. Bradley, Clerk of Court

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)WhatsApp Communications Contained In
Samsung Model J727T1, IMEI 357847090464101
FCC ID A3LSMJ727T, Line Item 027

Case No.

H19-1034M

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (*identify the person or describe the property to be searched and give its location*):

WhatsApp communications contained in Samsung Model J727T1, IMEI 357847090464101, Line Item 027.

located in the Southern District of Texas, there is now concealed (*identify the person or describe the property to be seized*):

Please see affidavit which is attached hereto and made a part of this Application regarding communications and data on the above describe cell phone.

The basis for the search under Fed. R. Crim. P. 41(c) is (*check one or more*):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 8, U.S.C. Section 1324(a)(1)(A)(v)(I)	Conspiracy to transport and harbor aliens for commercial advantage or private financial gain.

The application is based on these facts:
Please see the attached Affidavit, which is attached hereto and made a part of this Application.

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Ricardo Morales, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 06/05/2019

Judge's signature

City and state: Houston, Texas

Frances Stacy, United States Magistrate Judge

Printed name and title

1. I am a Special Agent, having been so employed since 2001 with the U.S. Department of Justice, Immigration and Naturalization Service (INS), further converted in 2003 to the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI). I am presently assigned to the HSI Houston Human Smuggling Group, with investigative responsibility for cases in the Southern District of Texas-Houston Division. As an HSI Special Agent, my job and responsibilities include conducting investigations of violations of the immigration and customs laws of the United States, to include alien smuggling, pursuant to Title 8, United States Code, § 1324; and related offenses. I attended the Federal Law Enforcement Training Center at Glynco, Georgia, where I received training for the purpose of accomplishing my criminal investigator duties. Furthermore, I also received training on a continuing basis for the purpose of maintaining my proficiency pertaining to criminal investigator work. I have participated in investigations of alien smuggling, narcotics trafficking, money laundering, complex conspiracies, and among other things, have conducted or participated in surveillances, the execution of search warrants, and debriefings of informants. Through my training, education and experience, I have become familiar with the manner in which alien

smugglers conduct their operations, including but not limited to, their methods of smuggling and transporting illegal aliens, the use of telecommunication devices to include cellular telephones, use of counter surveillance techniques, and use of numerical codes and coded and/or cryptic language, words, and references to conduct their transactions.

2. This affidavit is submitted in support of an application for a search warrant for the WhatsApp communications contained in of one cellular telephone seized from Jose NUNEZ-Arellano, aka MANUEL, upon his arrest in Houston, Texas.

3. In my capacity as a federal law enforcement officer, I have had numerous conversations with persons engaged in the smuggling of illegal aliens in the United States, the transportation, staging at stash houses, the payment of smuggling fees, the hostage keeping for ransom and the subsequent delivery of the illegal aliens to relatives and/or friends at their final destinations in the United States. I have also had numerous conversations with other experienced police officers, investigators, intelligence analysts and law enforcement officials in which the techniques and methods of alien smugglers, and the laundering of cash proceeds derived from those illegal activities were discussed and reviewed.

4. Based upon my knowledge, training and experience, and the experience of other law enforcement personnel with whom I have worked, I have learned the following:

- A. Alien smugglers often work in small cells with contacts in Mexico, Central and South America to recruit people in these foreign locations willing to pay significant amounts of money to be transported from their countries of origin all the way to the Mexico-U.S. border to be smuggled illegally through the south border of the U.S. without detection.
- B. Alien smugglers maintain lists to include illegal aliens' names, cellular

telephone numbers of relatives or friends in the U.S., destination city, smuggler name in originating country, smuggling fee amount, smuggler name in the U.S., transporters names and telephone numbers and names of stash house keepers.

- C. Alien smugglers store information such as names, cellular telephone numbers, caller identification information, pager numbers, and other identification information in their cellular telephones.
- D. Based on my training and experience, I know that cellular telephones are commonly utilized by alien smugglers to coordinate their unlawful activities. This device, by its nature, is easily transportable and designed to be operable hundreds of miles from their normal area of operations, providing reliable and instant communications. The cellular telephones are believed to contain telephone numbers and other numerical data linked to associates involved in the illegal enterprise of alien smuggling and movement of funds generated by such activity. I know that cellular telephones have the assigned number to that phone, along with numbers dialed and calls received, and programmed numbers and names stored in their memory. Accordingly, there is probable cause to believe that the cellular telephone contains information relevant to the commission of a crime, to wit; conspiracy to transport illegal aliens, in violation of 8 USC 1324, including the assigned telephone number, telephone numbers dialed and the identification numbers of calls received and other numerical data, including programmed numbers and voice and text messages in the

electronic memory.

PROBABLE CAUSE TO SEARCH

1. On August 22, 2018, the Houston Police Department (HPD) notified HSI Houston special agents that they received a complaint from a female in New Jersey claiming that her brother had been kidnapped in Houston by his smugglers.

2. On the same day HSI Houston special agents contacted Guatemalan national Ilsa MAZARIEGOS-Salazar (Hereinafter ILSIA), who reported that her brother, identified as Guatemalan national Migdael MAZARIEGOS-Salazar (Hereinafter MIGDAEL), had been successfully smuggled to Houston, Texas by August 12, 2018, after arranging paying an \$8,500 US dollar smuggling fee to smugglers in Guatemala. According to ILSIA, the smugglers reported that he was already in Houston but were requesting an additional \$7,000 US dollars fee in order to release him, threatening her to pay the additional money or “MIGDAEL would be killed, chopped up into pieces and disappeared”. ILSIA further added that a smuggler she identified as “EL SOBRINO” (THE NEPHEW) also told her that if she called police “they would kill him” and that “they had people everywhere”. ILSIA also reported that she had spoken directly with MIGDAEL on the phone initially on August 12, 2018, and subsequently on August 20, 2018. MIGDAEL was positively identified in HSI systems from a 2015 arrest by Border Patrol in Alice, Texas, thus confirming it was a real person.

3. On August 23, 2018, HSI agents in New Jersey met with ILSIA and placed a monitored call to the smuggler’s number on which she talked to her brother MIGDAEL. During the telephone call ILSIA introduced an HSI undercover agent that would meet with the smugglers later that day to pay the \$7,000 U.S. dollars in exchange for MIGDAEL.

4. Based on the death threats made directly to ILSIA concerning her brother MIGDAEL, on August 23, 2018, HSI Houston agents arranged an exigent location service with AT&T Wireless and confirmed that the device associated with the smuggler's telephone number was located in Houston, Texas. Surveillance was initiated and led HSI special agents to the Sunset Crossing Apartment Homes at 10630 Beechnut St, in Houston Texas.

5. Later that day, an HSI Houston agents conducted an undercover operation at a nearby supermarket and arrested two Mexican nationals when they attempted to deliver MIGDAEL in exchange for the \$7,000 U.S. dollars, and rescued MIGDAEL from the smuggler's vehicle. Subsequently HSI Houston agents returned to the apartment complex where agents observed the two Mexican nationals depart with MIGDAEL and conducted an exigent search of the two apartments identified during surveillance. The search resulted in the rescue of four additional Guatemalan nationals from one of the units.

6. After processing and interviewing all the subjects arrested during the operation, Mexican nationals Ismael RODRIGUEZ-Serrano and Daniel LOPEZ-Garcia were subsequently charged with violations of 18 USC 1203(a), conspiracy to commit hostage taking, and 8 USC 1324(a)(1)(A)(v)(I), conspiracy to transport and harbor illegal aliens.

7. In a post-arrest interview, RODRIGUEZ-Serrano admitted that he was operating the stash house of illegal aliens on behalf of his boss MANUEL, who was the owner of the white Chevrolet Tahoe RODRIGUEZ-Serrano was arrested in, as well as a white Toyota Tundra pick-up truck. RODRIGUEZ-Serrano identified telephone number (346) 901-9442 as MANUEL's number through which he coordinated with him. During a consented search of RODRIGUEZ-Serrano's cellphones agents identified a white Toyota Tundra pick-up truck from a close-up photo of a Texas temporary license plate. Agents also found text messages between RODRIGUEZ-

Serrano's cellphone and the telephone number he identified for his boss MANUEL in which RODRIGUEZ-Serrano was consulting all transactions regarding the smuggling of the illegal aliens.

8. On October 3, 2018, HSI agents discovered that the white Toyota Tundra identified from RODRIGUEZ-Serrano's cellphone photos was registered to an Antonio SARDINETAZ-Roman at 11911 Aggie Ln, Houston, Texas (Hereinafter referred to as THE RESIDENCE). The address for THE RESIDENCE was also found in text messages between RODRIGUEZ-Serrano's cellphone and the telephone number he had identified for his boss MANUEL. Subsequently HSI agents drove by THE RESIDENCE and confirmed that the white Toyota Tundra was parked in the driveway. Subsequent surveillance at THE RESIDENCE identified multiple vehicles at the address that were registered to various individuals at addresses in border towns in South Texas known for alien smuggling activities.

9. Between October 17 and November 21, 2018, HSI agents conducted a remote surveillance at 11911 Aggie Ln, Houston, Texas, and observed multiple instances where multiple individuals were led into and driven out of the residence during all times of the day, night and early hours of the morning, as well as multiple subjects that appeared to bring loads of food groceries, all indicative of alien smuggling activity.

10. On November 2, 2018, RODRIGUEZ-Serrano was interviewed a second time and during said interview he identified Jose NUNEZ-Arellano from a photo lineup as MANUEL, and further identified Huber NUNEZ-Arellano (Hereinafter referred to as HUBER) as another of MANUEL's workers at the stash house in the apartment complex. Based on the investigation agents secured a search warrant for THE RESIDENCE and arrest warrants for MANUEL and HUBER.

11. On November 28, 2018, HSI agents, along with other federal and state law enforcement officers executed a federal search warrant at 11911 Aggie Ln in Houston, Texas. During the execution of the search warrant agents apprehended MANUEL, along with Mexican nationals Joel OSORNIO-Cruz (Hereinafter OSORNIO-Cruz), Paulino RIOS-Garcia (Hereinafter RIOS-Garcia) and juvenile Luis Angel GARCIA-Uriostegui. Agents also found two Indian nationals and four Guatemalan nationals that were being held in a small bedroom in the detached garage in the back of the residence. All the aliens found in the detached garage were identified as illegal aliens. During the search, special agents seized three pistols, one shotgun, one rifle, ammunition, over \$11,000 U.S. dollars in cash, multiple cellphones, four vehicles and miscellaneous documents related to the Sunset Crossing Apartment Homes, apartments 115 and 112.

12. OSORNIO-Cruz and RIOS-GARCIA were subsequently charged and arrested for violation of 8 USC 1324(a)(1)(A)(v)(I), conspiracy to transport and harbor illegal aliens, for their involvement with the smuggling of the illegal aliens found at THE RESIDENCE.

13. Among the items seized, HSI agents seized one cellphone identified as a Samsung Model J727T1, IMEI 357847090464101, FCC ID A3LSMJ727T, also known as seized cellphone line item 027 (Hereinafter referred to as **SUBJECT PHONE**). Since it was seized, the **SUBJECT PHONE** has been held as evidence at an HSI evidence vault and subsequently at the HSI computer forensics laboratory in Houston, Texas.

14. On January 18, 2019, HSI agents obtained search warrants for twenty-three cellphones that were seized at THE RESIDENCE. Those twenty-three cellphones were immediately turned over to the HSI Houston computer forensics laboratory for data extraction and examination. Out of the twenty-three cellphones seized at THE RESIDENCE, agents identified

that four of those cellphones were used by MANUEL, namely seized cellphone line item 022 (Hereinafter LI 022), **SUBJECT PHONE**, seized cellphone line item 028 (Hereinafter LI 028), and seized cellphone line item 029 (Hereinafter LI 029).

15. Immediately upon his arrest on November 28, 2018, MANUEL claimed LI 022 as his property and was subsequently allowed to write down contact numbers on a piece of paper after a post-arrest interview the day of his arrest.

16. During his post-arrest interview, MANUEL stated that he used telephone number (832) 245-3528, which according to the data extraction report from LI 029, is the telephone number last associated with that device. Telephone number (832) 245-3528 is saved in **SUBJECT PHONE** under contact name “KarnitAz”, and in LI 028 under contact name “Ññ”.

17. On December 13, 2018, HSI agents interviewed Mrs. Rosabel Flores-Rahal, owner of THE RESIDENCE, who identified MANUEL as Manuel Sanchez from a photo her husband found at THE RESIDENCE after his arrest. During this interview Flores-Rahal showed HSI agents Manuel Sanchez’s contact information from her cellphone contact list and it displayed telephone number (214) 395-9993, telephone number last associated with LI 028, according to the data extraction report for that device. Telephone number (214) 395-9993 is saved in LI 022 under contact name “S”.

18. On May 13, 2019, HSI agents concluded that the **SUBJECT PHONE** is the device associated with telephone number (346) 901-9442, by confirming that IMEI number 357847090464101, identified in the data extraction report for the **SUBJECT PHONE**, is an exact match to the device number identified in the T-Mobile subpoena response for said telephone number. On August 23, 2018, co-defendant RODRIGUEZ-Serrano identified telephone number (346) 901-9442 as MANUEL’s number. (346) 901-9442 is saved as a contact in LI 029 only

identified with a face emoji with the tongue sticking out. Among the multiple photos found in the **SUBJECT PHONE**, agents found two photos of four money orders to the name of Rosabel Rahal (Same subject identified above as Rosabel Flores-Rahal, owner of THE RESIDENCE), totaling \$2,800, as well as a photo of the white Toyota Tundra seized at THE RESIDENCE. Among the video recordings found in the **SUBJECT PHONE**, agents found a video recording dated August 1, 2018, of co-defendant RODRIGUEZ-Serrano horse-playing with co-defendant Huber NUNEZ-Arellano in what appears to be Sunset Crossing Apartment Homes apartment 112, as well as a video recording dated July 19, 2018, recorded from the front passenger seat of a moving vehicle with MANUEL talking on the phone while recording the road.

19. Upon analyzing the saved contacts, text messages (SMS), multi-media messages (MMS), photos, audio files, video files, and WhatsApp messages and calls in LI 022, LI 028 and LI 029, HSI agents learned that MANUEL utilized these devices to communicate and coordinate his alien smuggling and hostage taking activities with multiple associates, both known and unknown. HSI agents concluded that in multiple instances MANUEL transferred messages, photos, videos and voice notes between his own devices to forward them to other contacts from a different device under his control, via text messages (SMS), multi-media messages (MMS) and WhatsApp.

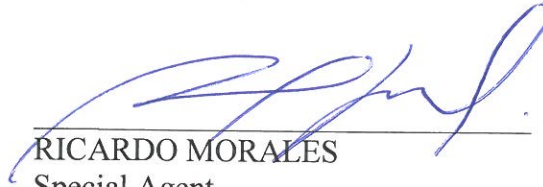
20. On May 30, 2019, HSI agents realized that WhatsApp messages were not extracted during the initial examination of the **SUBJECT PHONE**, pursuant to the January 18, 2019 approved search warrant. A physical review of the **SUBJECT PHONE** revealed that this device does contain the WhatsApp application and this application does contain communications within. HSI Houston forensics specialist Prentice Lucas explained that the forensic software's ability to extract WhatsApp content varies by device brand, operating system version, WhatsApp version,

among other factors.

21. Rule 41 of the Federal Rules of Criminal Procedure authorizes the government to seize and retain evidence and instrumentalities of a crime for a reasonable time, and to examine, analyze, and test them.

22. The evidence and instrumentalities of violations of conspiracy to transport illegal aliens, 8 USC, Section 1324(a)(1)(A)(v)(I), are believed to be contained within the telephone and are listed in Attachment B to this Affidavit, which is incorporated herein by reference.

23. In consideration of the facts presented, your Affiant respectfully requests that this Court issue a search warrant for the WhatsApp communications contained within the **SUBJECT PHONE** seized from Jose NUNEZ-Arellano, aka MANUEL, as more fully described in Attachment A, and authorize retrieval of the items described in Attachment B to this Affidavit.


RICARDO MORALES
Special Agent
Homeland Security Investigations

SWORN TO BEFORE ME THIS 5 day of June 2019.


FRANCES STACY
UNITED STATES MAGISTRATE JUDGE

Attachment A

1. Samsung Model J727T1, IMEI 357847090464101, FCC ID A3LSMJ727T.

Attachment B

INFORMATION TO BE SEIZED

The cellular telephone as described in Attachment A, and containing evidence pertaining to transportation of illegal aliens and conspiracy of the same is being stored; the said evidence being:

- A. All WhatsApp communications.